

June 2, 2021

Please share this with all Superior Court Clerks, District and Municipal Court Administrators, and Judges

Good Afternoon:

A recent court case, and newly passed legislation, will change how the Department of Licensing handles certain driver license suspensions.

The case, *Pierce v. DOL*, addressed the constitutionality of [Revised Code of Washington 46.20.289](#). The law requires the Department of Licensing to suspend an individual's driver license in specific circumstances, including when the driver fails to appear for or pay a non-criminal moving violation. On April 30, 2021, Thurston County Superior Court Judge Mary Sue Wilson ruled that the law is unconstitutional because no inquiry exists regarding the individual's ability to pay fees and costs associated with the non-criminal moving violations before the suspensions is imposed.

On June 1, Judge Wilson issued an order preventing DOL from suspending driver licenses for failure to appear (FTA) for non-criminal moving violations – such as speeding or running a red light – and requiring the department to release existing non-criminal moving violation failure-to-appear suspensions.

The term “failure to appear” or “FTA” is commonly used to describe situations in which individuals fail to respond to traffic infractions, fail to pay fines associated with traffic infractions, or fail to appear at court hearings related to traffic infractions.

Only FTA suspensions for non-criminal moving violations are affected. DOL will continue to apply FTA suspensions for criminal traffic offenses, suspensions imposed for convictions, and suspensions based on the accumulation of traffic offenses.

Earlier this year, the Washington State Legislature passed [Engrossed Substitute Senate Bill 5226](#), which changes the FTA suspension law. Effective January 1, 2023, individuals will no longer be suspended for failure to pay alone for non-criminal moving violations under the new law. In addition, provisions in the new law address individuals' ability to pay traffic infractions. The court ruling terminates when ESSB 5226 takes effect.

The court order takes effect on June 8, 2021. DOL will immediately begin working with courts and law enforcement agencies across the state to help them understand this ruling and how to comply.

The court also imposed deadlines, as follows:

- **June 8, 2021:** DOL will stop suspending driver licenses for non-criminal moving violation failure-to-appear (FTA) actions submitted by district and municipal courts. DOL will continue to add FTA actions submitted for criminal traffic offenses or other required suspensions to driver records.
- **June 16, 2021:** DOL will remove existing FTA actions for non-criminal moving violations and resulting suspensions from driver records of affected individuals. DOL also will remove the requirement to pay the mandatory \$75 driver license suspension reinstatement fee for these individuals.
- **July 6 to July 31, 2021:** DOL will send letters to individuals with FTA suspensions covered by the judge's order notifying them that the suspension(s) and associated requirements have been removed.

If you have any questions please feel free to reach out to me.

Carla Weaver  
Law and Justice Liaison  
Programs and Services Assistant Director's Office  
Washington State Department of Licensing  
Office: 360-902-3682  
Cell: 360-628-7114  
[cweaver@dol.wa.gov](mailto:cweaver@dol.wa.gov)

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